

REMARKS

Claims 1 and 4-8 are currently being examined in this application, and stand rejected. Claims 2 and 3 were previously canceled by Preliminary Amendment. Claim 1 is an independent claim. Claims 4-8 each directly depend upon Claim 1.

Claims 1, 4, 5, and 7 have been amended in order to more particularly point out, and distinctly claim, the subject matter to which the applicants regard as their invention. The applicants respectfully submit that no new matter has been added, and it is believed that these amendments are fully responsive to the Office Action dated **April 1, 2008**.

Claims 1 and 4-8 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. The Examiner makes specific references to terms regarded as indefinite in Claims 1, 4 and 5, and rejects Claims 6-8 for their dependence on Claim 1.

Regarding the indefiniteness rejection to Claim 1, the Examiner asserts that “a linear velocity coefficient: as found in claim 1, at line 15, is indefinite because Claim 1 does not state how the coefficient is determined. In response, Claim 1 has been amended to clearly state that the linear velocity coefficient is specified by the specifying means through a first relational expression and a second relational expression. The first relational expression indicates the relationship of the ambient disk temperature and a second reference linear velocity at the specified linear velocity coefficient. The second relational expression is indicative of a

relationship of the linear velocity coefficient and the current linear velocity. In particular, this portion of Claim 1 (lines 15-19) relates back to lines 8-10, wherein the specifying means specifies linear velocity coefficient on the basis of the current ambient temperature and the current linear velocity on a portion of the disk being currently irradiated. These relational expressions are the vehicle by which the specifying means specifies the linear velocity coefficient.

Thus Claim 1, as amended, is sufficiently definite for one of ordinary skill in the art under 35 U.S.C. § 112, second paragraph. *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1378 (Fed. Cir. 2000). Withdrawal of the § 112, second paragraph, rejection is now in order and respectfully solicited.

Claim 7 has now been amended to comply more closely with the Specification and Claim 1 as amended.

By depending on Claim 1, withdrawal of the § 112 rejection as to Claims 6-8 is also now in order because there are no further § 112, second paragraph, rejections to these claims. Withdrawal of the § 112, second paragraph, rejection as to Claims 6-8 is respectfully solicited.

Regarding Claim 4, the Examiner asserts that the terms “a lower limit reproduction laser power value” and “a lower limit reproducible reproduction power” are not clear because their differences are not defined. Claim 4, as amended, now reads such that the reference reproduction laser power value of Claim 1 is obtained by adding (1) a predetermined portion of a

lower limit reproducible laser power value (the lowest value at which said disk recording medium can be reproduced) to (2) the lower limit reproducible laser power value. As such, Claim 4 is sufficiently definite for purposes of 35 U.S.C. § 112, second paragraph. Withdrawal of this rejection is now in order, and respectfully solicited.

Regarding Claim 5, the Examiner asserts that the terms “an upper limit reproduction laser power value” and “an upper limit reproducible reproduction power” are not clear because their differences are not defined. Claim 5, as amended, now reads such that the reference reproduction laser power value of Claim 1 is obtained by adding (1) a predetermined portion of a upper limit reproducible laser power value (the highest value at which said disk recording medium can be reproduced) to (2) the upper limit reproducible laser power value. As such, Claim 5 is sufficiently definite for purposes of 35 U.S.C. § 112, second paragraph. Withdrawal of this rejection is now in order, and respectfully solicited.

The Examiner has further rejected Claims 1 and 4-8 under 35 U.S.C. § 102(e) as being anticipated by Yamazaki et al. (U.S. Patent No. 6,552,980). The Examiner asserts that Yamazaki et al. teaches each and every limitation (elements and means) as recited in Claims 1 and 4-8. In particular, the Examiner asserts that Yamazaki et al. teaches a first relational expression and a second relational expression as found within the present specification.

For these relational expressions, the Examiner cites Fig. 9, steps S54 and S55, of Yamazaki et al.. First, the Examiner contends that because a “temperature is obtained from the detector 21” that the first relational expression is anticipated. The detector 21 is described in

Col. 8, lines 6-18. Steps S54 and S55 of Fig. 9 are discussed in Col. 12. Steps S54 and S55 are outcomes of S53, whereby depending upon the difference between the Power for Zone B and the Data-Reproducing Power, the Data-Reproducing Power will be set up by means of a quadratic approximation (S55) or a linear approximation (S54). Essentially, the Yamazaki et al. disclosure teaches a method to determine in if its data-reproducing power should be performed by a linear or quadratic approximation. However, in performing this determination, the flow chart of Fig. 9 (as described in Col. 11, line 62 through Col. 12, line 41) does not establish a link between the relationship of the ambient temperature of a disk at a second reference linear velocity and a linear velocity coefficient.

Further, nowhere else in Yamazaki et al. does any equation or expression exist relating the ambient temperature of the disk set at a second reference linear velocity to a linear velocity coefficient. For example, Fig. 8 of Yamazaki et al. only discloses a graph of how the data-reproducing power relates to beam position. This figure does not account for the ambient temperature or an expression establishing its relationship at second reference linear velocity to a linear velocity coefficient as required by Claim 1.

Regarding the second relational expression of Claim 1, Yamazaki et al. does not disclose a relational expression relating the linear velocity coefficient and the current linear velocity. Again, the Examiner cites Fig. 9, steps S54 and S55, because “each new velocity approximation requires an old velocity and an approximation coefficient.” Taking the Examiner’s argument at its face, Yamazaki et al. does not account for which linear velocity (the current, or some other) is to be utilized in a second relational expression. Further, there is no recitation to enable someone

one of ordinary skill in the art to understand what relationship is being utilized by Yamazaki et al. to determine the nature of the approximations in S54 and S55. Further, the reference does not teach using a current linear velocity as now required of the second relational expression as now found within Claim 1.

Thus, the present invention, as now claimed, is patentable over Yamazaki et al. because the Yamazaki et al. reference does not teach, or even suggest, the first and second relational expressions as contained in amended Claim 1. As such, withdrawal of the § 102(e) rejection of Claim 1 is now in order, and respectfully solicited.

By depending on Claim 1, Yamazaki et al. does not anticipate Claims 4-8, either. As such, Claims 4-8 are now in condition for allowance. Withdrawal of the § 102(e) rejection as to Claims 4-8 is also respectfully solicited.

U.S. Patent Application Serial No. **10/501,331**
Amendment filed July 1, 2008
Reply to OA dated April 1, 2008

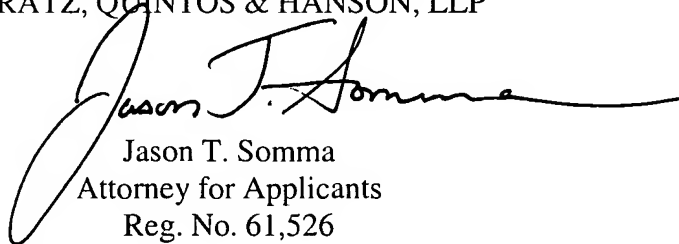
In view of the aforementioned amendments and accompanying remarks, Claims 1 and 4-8 are in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees that may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP


Jason T. Somma
Attorney for Applicants
Reg. No. 61,526

JTS/jts

Atty. Docket No. **040361**
Suite 400
1420 K Street, N.W.
Washington, D.C. 20005
(202) 659-2930 ext. 211



23850

PATENT & TRADEMARK OFFICE